Tax on corporate transactions in Cyprus: overview

by *Elias Neocleous* and *Elena Christodoulou*, *Elias Neocleous & Co LLC*

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A Q&A guide to tax on corporate transactions in Cyprus.

The Q&A gives a high level overview of tax in Cyprus and looks at key practical issues including, for example: the main taxes, reliefs and structures used in share and asset sales, dividends, mergers, joint ventures, reorganisations, share buybacks, private equity deals and restructuring and insolvency.

To compare answers across multiple jurisdictions, visit the tax on corporate transactions *Country Q&A Tool*.

The Q&A is part of the global guide to tax on transactions. For a full list of jurisdictional Q&As visit *www.practicallaw.com/taxontransactions-guide*.

Tax authorities

1. What are the main authorities responsible for enforcing taxes on corporate transactions in your jurisdiction?

The Tax Department within the Ministry of Finance administers all nationally imposed taxes, including income tax, corporate income tax, capital gains tax (CGT), special defence contribution (SDC), stamp duty and value added tax (VAT).

Pre-completion clearances and guidance

2. Is it possible or necessary to apply for tax clearances or obtain guidance from the tax authorities before completing a corporate transaction?

There is no requirement to obtain advance tax clearance. However, for the convenience of taxpayers, the Tax Rulings Division of the tax department will, on application by or on behalf of a taxpayer, issue advance tax rulings regarding actual transactions (including series of transactions) relating to tax years for which the due date for filing a tax return has not yet passed, and transactions proposed to be undertaken by existing or new entities.

Requests for rulings must be in writing and must include at least the following information:

- The name and tax identification code of the parties involved in the relevant transaction and the name of any group of companies of which any parties are members.
- Confirmation that all the parties have filed all the tax returns due.
- A summary of the matter in respect of which the ruling is sought, including a description of the relevant business activities or transactions (or series of transactions), giving a sufficient explanation of the tax issue under consideration.
- Detailed factual analysis of the transaction(s) relating to the request.
- The question(s) on which a ruling is required.
- References to the relevant tax legislation, tax circulars or practices of the tax department, and to any relevant case law.
- The applicant's assessment of the appropriate tax treatment.

Requests are dealt with in the order in which they are received unless the Commissioner of Tax is satisfied that there are reasonable grounds for issuing an expedited ruling on a particular matter at the taxpayer's request. A fee of EUR1,000 is payable for a standard ruling. The taxpayer can request an expedited ruling, guaranteeing a response within 21 working days, provided all the necessary information is supplied, in which case the fee is EUR2,000.

In its response to a ruling request the tax department will not necessarily limit itself to the specific question in the request. It can include any tax consequences that in its opinion flow from the transactions specified in the ruling request, even if the applicant did not request an opinion on these matters.

Rulings will be binding only with regard to the taxpayers specifically mentioned in the ruling request, and provided that both:

- The facts and circumstances presented in the ruling request continue to be applicable.
- There is no subsequent change in the tax law which renders the ruling inapplicable.

The Tax Rulings Division will express an opinion on the applicable tax treatment of the hypothetical transaction or scenario presented to it and will not be responsible for verifying the facts presented by the applicant.

In the event of any subsequent discrepancy between the scenario presented in a tax ruling request and the actual transactions undertaken, the relevant District Tax Office can either:

- Decline to apply the tax ruling.
- Inform the Tax Rulings Division of the actual facts, asking it to confirm or modify the initial ruling.

Disclosure of corporate transactions

3. Is it necessary to disclose the existence of any corporate transactions to the tax authorities?

Circumstances where disclosure is required

Companies must submit a corporate income tax return to the tax department supported by audited financial statements complying with international reporting standards. There is a self-assessment system requiring estimates and payments on account to be to be submitted before 31 July and 31 December of the tax year, and the final return and payment to be made by the following 1 August. Companies must also submit other ad hoc returns, such as:

- Annual returns of tax deducted from payments to employees.
- Returns of dividends paid and special contribution for defence (SDC) withheld.
- Returns of deemed dividend distributions for the purposes of SDC (*see Question 6*).

Manner and timing of disclosure

The time allowed for submission of the corporate income tax return is 15 months after the end of the year to which the return relates. For example, the return for the year ended 31 December 2016 must be submitted by 31 March 2018. Returns must be submitted electronically via the tax department's TAXISnet system.

Main taxes on corporate transactions

Transfer taxes and notaries' fees

4. What are the main transfer taxes and/or notaries' fees potentially payable on corporate transactions?

Stamp duty

Stamp duty is a tax on documents similar to UK stamp duty. A stampable document (broadly, a contract, wherever created or executed, governing a transaction relating to property in Cyprus or anything done in Cyprus) which is not stamped with the correct amount of duty paid cannot be adduced in evidence in court without payment of the duty and appropriate penalty.

The stampable contracts most frequently encountered in corporate transactions include:

- Share purchase agreements.
- Asset purchase agreements.
- Joint venture agreements.
- Subscription and shareholder agreements.
- Debentures.

Rates of stamp duty are as follows:

- On transactions with a consideration of up to EUR5,000, no stamp duty is payable.
- On transactions with a consideration of between EUR5,000 and EUR170,000, stamp duty of EUR1.5 for every EUR1,000 (or part of EUR1,000) is payable.
- On transactions with a consideration in excess of EUR170,000, stamp duty of EUR2 for every EUR1,000 (or part of EUR1,000) is payable.

Where no amount of consideration is specified in the contract the stamp duty is EUR35. The maximum stamp duty payable on a contract is capped at EUR20,000. For a transaction which is evidenced by several documents, stamp duty is payable at the usual rate on the main contract and ancillary documents are charged at the flat rate of EUR2.

A number of categories of documents are exempt from stamp duty, including documents relating to corporate reorganisations (which are exempt from all forms of taxation) and ship mortgage deeds or other security documents.

Stamp duty must be paid within 30 days from the date of execution of the relevant documents or, if they are executed abroad, within 30 days after they are received in Cyprus. If stamp duty is paid late, a surcharge of approximately 10% of the unpaid amount is payable, provided payment is made within six months after the due date. Otherwise, the surcharge for later payments is twice the unpaid amount.

Stock transfer fees

Stock transfer fees are payable by corporate entities selling shares quoted on the Cyprus Stock Exchange (CSE) at 1% of sale proceeds.

Land transfer fees

Land transfer fees are payable by a corporate buyer or donee of real property in Cyprus when title deeds are issued by the Department of Land and Surveys. If VAT is payable on the property no transfer fee is payable. Otherwise, the transfer fee is charged at progressive rates on successive tranches of the acquisition price (or market value of gifts) as follows:

- Up to EUR85,000: 1.5%.
- EUR85,000 to EUR170,000: 2.5%.
- Over EUR170,000: 4%.

Corporate and capital gains taxes

5. What are the main corporate and/or capital gains taxes potentially payable on corporate transactions?

Overview
Taxation payable by companies in Cyprus on typical corporate transactions is generally confined to transfer fees and other indirect taxes.

Corporate income tax may arise on the sale of goodwill and intellectual property rights (IPRs) and CGT may arise on the sale of Cyprus immovable property (whether directly or indirectly on the sale of shares in a property holding company).

An overview of the taxation of companies is provided below.

Corporate income tax
A company is resident in Cyprus if it is managed and controlled in Cyprus.

Corporate income tax is assessed by reference to the calendar year at a flat rate of 12.5%, on the worldwide taxable profit of a company resident in Cyprus and on the Cyprus-source profits of non-resident companies with a permanent establishment (PE) in Cyprus.

Taxable profits include:

- Trading profit, which includes profits from the sale of:
    - goodwill;
    - IPRs;
    - work in progress;
    - stock.
- Interest earned within or closely related to the ordinary course of business.
- Rents from real estate.
- Royalties.

The main reliefs available are:

- Expenditure wholly and exclusively incurred in earning the taxable income.
- Capital allowances.
- Credits for foreign tax paid.

- Losses surrendered in the same year by other companies in a 75% group relationship.
- Unused losses brought forward from previous years. Trading losses can be carried forward for a maximum of five years.

No corporate income tax is payable by a company in relation to:

- Profits or gains from the sale of securities (widely defined).
- Dividend income (which is generally exempt from all tax in Cyprus but may be subject to SDC; see below, *SDC*).
- Interest other than interest received within or closely related to the ordinary course of business of the company (which is subject to SDC at 30% of the gross amount; see below, *SDC*).
- Capital gains (*but see below, CGT on disposals of immovable property*).
- Profit of a permanent establishment overseas. Alternatively, taxpayers may elect for the profits of a foreign permanent establishment to be subject to Cyprus tax, with a tax credit for foreign taxes, subject to transitional rules following a change in basis.

A favourable tax regime is available to shipping and ship management companies under which tax liabilities are calculated by reference to revenues or tonnage of vessels, at the taxpayer's option.

The "intellectual property box" regime, which was introduced in 2012 and amended in 2016 to comply with the OECD's "modified nexus" approach, provides a deduction equal to 80% of income from qualifying intellectual property assets and consequently an effective tax rate of less than 2.5% on such income. Gains on disposal are effectively tax exempt.

SDC

SDC is imposed on Cyprus residents only. Individuals are liable to SDC tax only if they are both resident and domiciled in Cyprus for the year of assessment concerned. Coupled with the income tax exemptions applying to such income, this means that individuals who are resident but not domiciled in Cyprus are exempt from all forms of Cyprus tax on all forms on dividends and passive interest, regardless of source.

For the purposes of determining liability to SDC tax, an individual has a domicile in Cyprus if he has a domicile of origin in Cyprus as defined in the Wills and Succession Law, unless he:

- Has acquired and maintains a domicile of choice outside Cyprus and was not a tax resident of Cyprus as defined in the Income Tax Law for any period of at least 20 consecutive years prior to the year of assessment.
- Was non-resident for purposes of the Income Tax Law for any of the immediately preceding 20 tax years.

In any event, an individual will be deemed to be domiciled in Cyprus if he has been a tax resident for 17 or more of the 20 tax years immediately preceding the year of assessment.

The principles of the Wills and Succession Law regarding domicile follow English law.

Dividends. The SDC rate applicable to dividends received by individuals is 17%. Companies are exempt from SDC on dividends received unless at least one of the following applies:

- The dividend income is paid by a non-resident company bearing a significantly lower tax burden than that imposed in Cyprus (in practice, 6.25% or below), more than 50% of the activities of which result directly or indirectly in passive investment income (the "passive dividend" rules).
- A Cyprus-resident company fails to distribute at least 70% of its net distributable profits within two years of the end of the year in which this profit was earned. In this case, its Cyprus-resident shareholders are deemed to receive their proportionate share of the dividend, which is charged to SDC at 17% (or 3% for collective investment schemes), withheld and accounted for by the company. This charge can be avoided by ensuring the company distributes 70% of its income within the two-year time frame. It only applies where the shareholder concerned is a Cyprus tax resident and to the extent that the ultimate shareholders are Cyprus tax resident (and domiciled, in the case of individuals). There are anti-abuse provisions designed to prevent deferral of payment by interposing intermediate holding companies. However, dividends paid out of income derived directly or indirectly from dividends on which SDC was paid are not subject to any further SDC.
- Notwithstanding the 70% distribution threshold for avoiding the SDC charge, SDC is payable at 17% (or 3% for collective investment schemes) on any dividends paid four years or more later than the year the underlying profits were generated. This applies only where the shareholder concerned is a Cyprus tax resident and to the extent that the ultimate shareholders are Cyprus tax resident.

Interest outside the ordinary course of business. Interest received outside the ordinary course of business is subject to SDC at 30% on the gross amount of interest received. It is therefore advisable to ensure that a company lends money only within the ordinary course of its business, which is accepted to include the capitalisation of subsidiaries by holding and finance companies.

CGT on disposals of immovable property

As a rule, CGT is imposed at 20% on all gains (regardless of the residence of the disponor) arising from:

- Disposals of immovable property situated in Cyprus.
- Disposals of shares of companies holding immovable property situated in Cyprus (charged on the appropriate portion of the gain).

Capital losses can be carried forward.

There is an exemption for immovable property acquired between 16 July 2015 and 31 December 2016, provided that the property was acquired on an arm's length basis and not under the foreclosure provisions of the Transfer and Mortgage of Immovable Properties Law. Any gain on the disposal of the property will be exempt from CGT, irrespective of the date of disposal.

There is no CGT on disposals of other assets.

Value added and sales taxes

6. What are the main value added and/or sales taxes potentially payable on corporate transactions?

Value added tax (VAT)
The standard rate of VAT is 19%. Reduced rates of 5% and 9% apply to certain supplies.

VAT is administered on broadly the same principles across the EU member states, and is consequently potentially chargeable on the sale of assets, subject to the exemption for transfers of a going concern.

Sales of shares are generally exempt supplies, and as such, no input tax incurred on related costs such as professional fees can be recovered. However, following the decision of the European Court of Justice in *Kretztechnik AG v Finanzamt Linz (Case C-465/03)*, input tax incurred in connection with the issue of shares is generally recoverable.

Other taxes on corporate transactions

7. Are any other taxes potentially payable on corporate transactions?

Capital duty
Capital duty is payable at 0.6% of the authorised share capital of a Cyprus-registered company, both on incorporation and on any increase in authorised share capital.

Capital duty can be mitigated by creating shares at a lower nominal value and higher premium.

Taxes applicable to foreign companies

8. In what circumstances will the taxes identified in *Questions 4* to *7* be applicable to foreign companies (in other words, what "presence" is required to give rise to tax liability)?

Indirect taxes
Non-residents are generally liable for indirect taxes in Cyprus (*see Question 4, Stamp duty* and *Land transfer fees* and *Question 6*).

Direct taxes
A non-resident company is liable to corporate income tax on:

- Rents from immovable property in Cyprus.

- Business profits attributable to a PE in Cyprus (*see below*).
- Profits on the sale of goodwill of a business carried out in Cyprus.

A non-resident company is generally treated as having a PE in Cyprus if it maintains a fixed place of business or management or has a dependent agent acting on its behalf in Cyprus. An offshore drilling or production facility may also constitute a PE.

No PE is created by an independent agent acting within the ordinary course of its business or a representative office of a non-resident company.

A non-resident company is also liable to:

- CGT on gains arising from the disposal of immovable property in Cyprus.
- Capital duty in the case of a Cyprus-registered non-resident company.

A non-resident company is not liable to SDC.

Dividends

9. Is there a requirement to withhold tax on dividends or other distributions?

SDC (*see Question 5, SDC*) must be withheld by Cyprus companies on dividends paid to Cyprus-resident (and Cyprus-domiciled in the case of individuals) shareholders at a rate of 17%. There is no withholding requirement on dividends paid to non-residents.

Share acquisitions and disposals

Taxes potentially payable

10. What taxes are potentially payable on a share acquisition/share disposal?

Stamp duty

This is payable on a share purchase agreement or other contracts relating to the disposal of shares in a Cyprus company (*see Question 4, Stamp duty*).

Stock transfer fees

This is payable on the disposal of CSE-listed shares (*see Question 4, Stock transfer fees*).

CGT

If the target company directly or indirectly owns immovable property in Cyprus, CGT is payable on any gain attributable to the property (*see Question 5, CGT on disposals of immovable property*) unless reorganisation relief is available (*see Question 27*).

Exemptions and reliefs

11. Are any exemptions or reliefs available to the liable party?

The CGT potentially payable on the sale of shares in a target company holding immovable property in Cyprus, as well as stamp duty charges, are relieved in full if the transfer takes place as part of a reorganisation (*see Question 27*).

Tax advantages/disadvantages for the buyer

12. Please set out the tax advantages and disadvantages of a share acquisition for the buyer.

Advantages

Historic losses are carried forward in the target company for up to five years to reduce future taxable profits.

Group relief is available if there is a 75% or greater holding.

No withholding tax is payable on distributions.

No VAT arises on the sale of shares.

Disadvantages

Among the liabilities of the target company acquired, the buyer may inherit undisclosed tax liabilities.

Tax advantages/disadvantages for the seller

13. Please set out the tax advantages and disadvantages of a share disposal for the seller.

Advantages
The exemption from corporate income tax in relation to transactions in securities (*see Question 5, Corporate income tax*) can be used to shield the seller from tax on the profit arising on the sale of goodwill and IPRs.

Disadvantages
Capital losses incurred on the disposal of shares cannot be used.

Transaction structures to minimise the tax burden

14. What transaction structures (if any) are commonly used to minimise the tax burden?

The Cyprus tax laws are intentionally straightforward and the approach of the tax authorities is generally favourable to taxpayers.

Consequently, structuring of transactions involving Cyprus companies (which almost invariably feature a cross-border element) typically focuses on the tax codes of other jurisdictions involved.

Asset acquisitions and disposals

Taxes potentially payable

15. What taxes are potentially payable on an asset acquisition/asset disposal?

Stamp duty
This is payable on asset purchase agreements and other relevant documents (*see Question 4, Stamp duty*).

Land transfer fees

This is payable on the acquisition of immovable property in Cyprus (*see Question 4, Land transfer fees*).

Corporate income tax

Intangible assets. A seller is potentially subject to corporate income tax on gains from the disposal of goodwill and IP (see *Question, 5, Corporate income tax*, regarding the taxation of IP). The gain on goodwill is calculated by deducting the cost from the disposal proceeds. Profits from the disposal of IP are treated as trading income for corporate income tax purposes.

Capital allowances balancing charge. If the consideration attributed to an asset on the disposal of a business exceeds its tax written down value after deduction of capital allowances (*see Question 16, Corporate income tax: Capital allowances*), the excess is subject to corporate income tax in the hands of the corporate seller.

Stock and work in progress. Sums from the disposal of trading stock or work in progress are treated as trading income for corporate income tax purposes, in the hands of the corporate seller.

Trade debtors. If the amounts subsequently collected from trade debts exceed the price paid for those debts, the excess is treated as profit chargeable to corporate income tax in the hands of the buyer of the debts.

Foreign company PE. A foreign company PE is liable to pay corporate income tax on gains arising on the disposal of assets used in carrying out its trade.

Transfer pricing. Cyprus operates a basic transfer pricing regime, which adjusts the profits of a business to include profits which would otherwise have accrued to it had arrangements with its connected parties been made at arm's length.

CGT

This is payable on any gain arising from the disposal of immovable property in Cyprus or shares in companies holding such property (*see Question 5, CGT on disposals of immovable property*).

VAT

VAT is generally chargeable on a supply of business assets, unless the disposal is a transfer of a business as a going concern (*see Question 6*).

Other taxes

Capital duty is chargeable on any increase in authorised share capital to allow the issue of consideration shares (*see Question 7*).

Exemptions and reliefs

16. Are any exemptions or reliefs available to the liable party?

Corporate income tax

Reorganisation relief. Taxes arising on a sale of assets to a company in exchange for the issue of shares can potentially be relieved in full (*see Question 27*).

Capital allowances. A buyer of business assets is entitled to annual capital allowances of:

- 10% or up to 25% on qualifying expenditure on certain IT equipment, plant and machinery.
- 4% for industrial buildings from first use of the building.
- 3% for commercial buildings.

Capital allowances are claimed on a straight-line basis.

Accounting amortisation tax relief. A buyer who is within the charge to Cyprus corporate income tax (including a foreign company PE) can claim relief on the acquisition cost of second-hand cargo and passenger ships.

Capital allowances balancing allowance. If the consideration attributed to an asset on the disposal of a business is less than its tax written down value (*see above*), the shortfall can be offset against the seller's trading income to reduce its corporate income tax.

Trading stock. A tax deduction may be available to a buyer for sums paid for stock, provided such stock is appropriated to its trading stock.

Allowable losses. Current year, surrendered and carried-forward losses can be offset against income arising on the sale of a business, provided neither the ownership of the company nor the nature of the trade have significantly changed. Current year and brought-forward CGT losses can be offset against a capital gain from the disposal of real estate in Cyprus as part of the business.

Asset base cost step-up. As the buyer effectively acquires a market value base cost in the taxable assets, the profits from a subsequent disposal of the asset are calculated by reference to the increase in value after the business acquisition.

VAT

If a corporate seller transfers its business or part of it as a going concern to a buyer intending to use the assets to carry on the same kind of business, the supply generally falls outside the scope of VAT. Further, the land and building element of such a sale is outside the scope of VAT (*see Question 4, Land transfer fees*).

Tax advantages/disadvantages for the buyer

17. Please set out the tax advantages and disadvantages of an asset acquisition for the buyer.

Advantages
Key advantages of an asset purchase arise when significant allowances are available, as follows:

- Capital allowances and depreciation relief for the cost of assets purchased.
- The immediate tax deduction of any amount paid for stock.
- The potential acquisition of a market value base cost.

Disadvantages
Trading losses are not automatically transferred with the business and assets.

Tax advantages/disadvantages for the seller

18. Please set out the tax advantages and disadvantages of an asset disposal for the seller.

Advantages
An asset sale may allow a seller to:

- Use carried forward corporate income tax and CGT losses.
- Trigger balancing allowances.
- Take advantage of a dividend exemption on extraction of the profits of sale.

Disadvantages
An asset sale can trigger several tax charges in the hands of the seller, (*see Question 15*) which do not typically arise on a share sale.

Transaction structures to minimise the tax burden

19. What transaction structures (if any) are commonly used to minimise the tax burden?

Where the commercial rationale for an asset sale is the need to sell a branch or discrete profit centre, the potential tax charges on an asset sale (*see Question 15*) can often be avoided, by hiving the relevant assets down to a newly formed subsidiary in exchange for the issue of consideration shares, which are then sold.

Careful planning is required to ensure the hive-down qualifies for reorganisation relief (*see Question 27*) and general anti-avoidance rules are not used to recharacterise the transaction as an asset sale.

Legal mergers

Taxes potentially payable

20. What taxes are potentially payable on a legal merger?

If the merger qualifies for reorganisation relief (*see Question 27*) no taxes are payable. If the transaction does not fall within the statutory definition of reorganisation the following taxes are potentially payable.

Stamp duty
This is payable on contracts documenting a merger (*see Question 4, Stamp duty*).

Land transfer fees
These are payable on transfer of immovable property in Cyprus (*see Question 4, Land transfer fees*).

Corporate income tax
This is potentially payable in relation to transfers of assets (*see Question 15*).

CGT
This is payable on any gain arising from the disposal of immovable property in Cyprus or shares in companies holding such property (*see Question 5, CGT on disposals of immovable property*).

VAT
VAT is generally chargeable on a supply of business assets, unless the disposal is a transfer of a business as a going concern (*see Question 6*).

Other taxes
Capital duty is chargeable on any increase in authorised share capital to allow the issue of consideration shares (*see Question 7*).

Exemptions and reliefs

21. Are any exemptions or reliefs available to the liable party?

Transactions falling within the statutory definition of reorganisation (*see Question 27*) are exempt from tax. Additionally, there is an exemption from CGT for property acquired between 16 July 2015 and 31 December 2016 (*see Question 5*).

Transaction structures to minimise the tax burden

22. What transaction structures (if any) are commonly used to minimise the tax burden?

Structures should be carefully planned to take advantage of reorganisation relief (*see Question 27*).

Joint ventures

Taxes potentially payable

23. What taxes are potentially payable on establishing a joint venture company (JVC)?

Stamp duty
This is payable on the joint venture agreement (*see Question 4, Stamp duty*).

Land transfer fees
These are payable on transfer of immovable property in Cyprus (*see Question 4, Land transfer fees*).

Corporate income tax

This is potentially payable in relation to transfers of assets (*see Question 15*). Transfer pricing adjustments may be made (*see Question 15*).

CGT

This is payable on any gain arising from the disposal of immovable property in Cyprus or shares in companies holding such property (*see Question 5, CGT on disposals of immovable property*).

VAT

VAT is generally chargeable on a supply of business assets, unless the disposal is a transfer of a business as a going concern (*see Question 6*).

Other taxes

Capital duty is chargeable on any increase in authorised share capital to allow the issue of consideration shares (*see Question 7*).

Exemptions and reliefs

24. Are any exemptions or reliefs available to the liable party?

The scope for reducing taxation on the formation of the JVC is limited. However, if part of the transaction can be structured to fall within a defined reorganisation, reorganisation relief from CGT, corporate income tax and stamp duty is available (*see Question 27*).

VAT is not chargeable on the transfer of a business as a going concern.

Capital duty can be mitigated by creating shares at a lower nominal value and higher premium.

Transaction structures to minimise the tax burden

25. What transaction structures (if any) are commonly used to minimise the tax burden?

See *Question 24*.

Company reorganisations

Taxes potentially payable

26. What taxes are potentially payable on a company reorganisation?

Subject to the availability of reorganisation relief (*see Question 27*), the following taxes may be applicable.

Stamp duty
This is payable on contracts documenting the transaction (*see Question 4, Stamp duty*).

Land transfer fees
This is payable on the transfer of immovable property in Cyprus (*see Question 4, Land transfer fees*).

Corporate income tax
This is potentially payable in relation to transfers of assets (*see Question 15*).

CGT
This is payable on any gain arising from the disposal of immovable property in Cyprus or shares in companies holding such property (*see Question 5, CGT on disposals of immovable property*).

VAT
VAT is generally chargeable on a supply of business assets, unless the disposal is a transfer of a business as a going concern (*see Question 6*).

Other taxes
Capital duty is chargeable on any increase in authorised share capital to allow the issue of consideration shares (*see Question 7*).

Exemptions and reliefs

27. Are any exemptions or reliefs available to the liable party?

Reorganisation relief is available to allow the following transactions to take place in a broadly tax-neutral manner, with exemption from corporate income tax and stamp duty:

- **Merger.** This involves:
  - transfer on dissolution of all assets and liabilities from one company to another;
  - transfer by two companies to a third company, in exchange for the issue of shares (and limited cash amount); or
  - transfer on dissolution of all assets and liabilities to a 100% parent, without the transferring company or companies going into liquidation.
- **Demergers.** Transfer on dissolution of all assets and liabilities by a company to two or more companies, in exchange for the pro-rata issue of shares to the members of the transferring company.
- **Transfer of assets.** Transfer of any number of discrete branches, divisions or other profit centres to another company, in exchange for the issue of shares to the transferring company.
- **Exchange of shares.** Acquisition of a majority voting stake in a company, in exchange for the issue of shares in the acquiring company.

A disposal of shares or conversion of securities is generally exempt from corporate income tax.

Additionally, there is an exemption from CGT for property acquired between 16 July 2015 and 31 December 2016 (*see Question 5*).

Transaction structures to minimise the tax burden

28. What transaction structures (if any) are commonly used to minimise the tax burden?

See *Question 27*.

Restructuring and insolvency

29. What are the key tax implications of the business insolvency and restructuring procedures in your jurisdiction?

Business insolvency and restructuring procedures have relatively few tax implications.

Tax implications for the business
There are no tax implications for the business.

Tax implications for the owners
On dissolution of a Cyprus-resident company, other than as part of a reorganisation (*see Question 27*), Cyprus-resident corporate shareholders and individual shareholders who are both resident and domiciled in Cyprus are liable to account for SDC at 17% on a deemed distribution, consisting of the cumulative profits of the previous five years which have neither been distributed nor previously deemed distributed. For collective investment schemes the SDC rate is reduced from 17% to 3%.

Tax implications for the creditors
Creditors are entitled to deduct bad debts from trading profits for corporate income tax purposes and to recover VAT on bad debts.

Share buybacks

Taxes potentially payable

30. What taxes are potentially payable on a share buyback? (List them and cross-refer to *Questions 4* to *7* as appropriate.)

SDC
Cyprus corporate law allows public companies to redeem preference shares and repurchase up to 10% of their own issued shares out of distributable profits, or to return capital to shareholders under a court-approved capital reduction.

When capital is returned to a Cyprus-resident (and Cyprus-domiciled in the case of individuals) shareholder in a capital reduction, resulting in shareholders receiving more than they initially paid, this gives rise to a deemed distribution chargeable to SDC at 17% (*see Question 5, SDC*). (For redemption of units in collective investment schemes the SDC rate is reduced from 17% to 3%.)

Exemptions and reliefs

31. Are any exemptions or reliefs available to the liable party?

Not applicable.

Transaction structures to minimise the tax burden

32. What transaction structures (if any) are commonly used to minimise the tax burden?

Not applicable.

Private equity financed transactions: MBOs

Taxes potentially payable

33. What taxes are potentially payable on a management buyout (MBO)?

The taxes payable on a standard share or asset sale apply equally to MBOs (*see Questions 10* to *19*).

The personal income tax position of managers receiving equity incentives requires careful planning.

Exemptions and reliefs

34. Are any exemptions or reliefs available to the liable party?

Cyprus currently has no thin capitalisation rules. Although there is scope for challenging excessive interest deductions under the transfer pricing regime (*see Question 15*), in practice adjustments are made only to artificially high interest rates on debt finance. However, this situation is likely to change once the EU Anti-Tax Avoidance Directive is transposed into national law.

In July 2015, the government introduced a notional interest deduction (NID) in respect of new equity capital introduced into companies and permanent establishments of overseas companies after 1 January 2015. The NID is calculated by applying a prescribed rate (three percentage points above the relevant government bond rate) to the new equity. It is limited to 80% of the profit before deduction of NID. Unrelieved NID cannot be carried forward.

There is significant scope in Cyprus to reduce or eliminate tax in the MBO vehicle and potentially to surrender losses to the target company by group relief.

Transaction structures to minimise the tax burden

35. What transaction structures (if any) are commonly used to minimise the tax burden?

As MBOs using Cyprus companies typically feature a cross-border element, structuring transactions involving Cyprus companies focuses on the tax codes of other relevant jurisdictions.

Reform

36. Please summarise any proposals for reform that will impact on the taxation of corporate transactions.

Substantial amendments to the tax laws were adopted in 2015, with three main objectives:

- To stimulate economic activity and investment in real estate.
- To increase competitiveness and align domestic legislation with EU directives and ECJ case law.
- To attract high net-worth individuals and high-earning employees.

Further changes were also made in 2016. The annual tax on immovable property was abolished from 1 January 2017 and a temporary 50% reduction on immovable property transfer fees, which was initially due to expire at the end of 2016, was subsequently made permanent.

Online resources

Inland Revenue Department
W *www.mof.gov.cy/mof/mof.nsf/index_gr/index_gr?opendocument*

Description. Inland Revenue Department's website containing Greek language text of legislation and circulars. The Greek language text is binding.

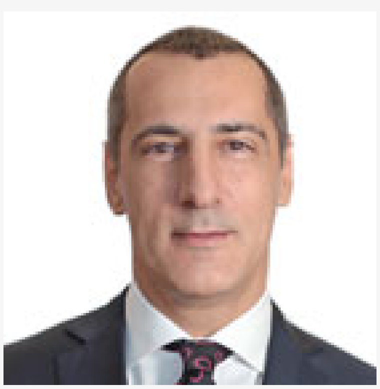
Ministry of Finance
W *www.mof.gov.cy/mof/mof.nsf/page26_en/page26_en?OpenDocument*

Description. List of double taxation agreements, which is regularly updated.

Contributor profiles

Elias Neocleous

Elias Neocleous & Co LLC



T +357 25 110110
F +357 25 110001
E *info@neo.law*

W www.neo.law

Professional qualifications. Admitted to Bar, Inner Temple, London, 1992; Admitted to Cyprus Bar, 1993

Areas of practice. M&A; banking and finance; international taxation; corporate and structured finance; restructuring and insolvency.

Recent transactions

- Advising the endowment fund of one of the world's most respected universities on the structuring of a US$125 million international investment.
- Advising a major international bank on the most efficient methods of repatriating profits accumulated in a Cyprus company.
- Advising on the corporate reorganisation of a company listed on the Budapest and Warsaw Stock Exchanges, with operations in Hungary, Poland and several other Eastern European countries.
- Advising leading global organisations on the Cyprus law and tax aspects of internal reorganisations.

Elena Christodoulou

Elias Neocleous & Co LLC

T +357 25 110110
F +357 25 110001
E info@neo.law
W www.neo.law

Professional qualifications. Graduated in law from the University of Surrey in 2010. LLM in International Commercial Law, University of Cardiff, 2011. Admitted to the Cyprus Bar in 2012.

Areas of practice. M&A; banking and finance; international taxation; trusts; corporate and structured finance; restructuring.

Recent transactions

- Advising trustees of Cyprus trusts on tax-effective structures for acquisition, holding and ultimate disposal of assets.
- Advising international companies on advanced business structuring issues.

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